



dated 13.09.2013 the Deputy Director of Consolidation of Holdings, Mau while exercising revisional jurisdiction observed as under:

"The learned counsel for the respondent has not thrown any light on this issue that when the unregistered Will was executed in their favour, why they did not file any application for transfer of their name on the basis of the said Will after the death of Narain son of Mahuli on 30.11.1994. After the death of Narain son of Mahuli on 30.11.1994, his wife Sonmati was the only close natural heir, whose name was registered on record without any dispute. If the respondent Shanti Devi was actually having any Will executed by the deceased Narain son of Mahuli, she should have taken action to get her name registered on its basis, but she did not do so. It is clear from this that she was not having any such Will at the death of Narain son of Mahuli.

The name of Sonmati was registered as the natural heir in the year 1994 and she lived for about 9 years thereafter. During this period of 9 years, her ownership and possession was not challenged in any manner. During her life time, she executed a registered Will in favour of the revisionists and the name of the revisionist was registered by the order of the Tehsildar on 15.4.2004 before commencement of the proceedings of consolidation of holdings. This order of the Tehsildar was not challenged in any Competent Revenue Court and this order is still in existence. Hence, after this order, the principle of res judicata will also apply on the question of inheritance of Sonmati or Narain son of Mahuli. Under these circumstances, neither the Consolidation Officer nor the Settlement Officer, Consolidation of Holdings has discussed either of these two legal points. So far as the question raised by the respondent for giving the opportunity of hearing on the principle of natural justice is concerned, it will be pertinent to mention here that one of the aspect of the principle of natural justice is that the justice should not only be done, but should also seem to be done. It is sounded on this principle that when Narain son of Mahuli expired in the year 1994 and the respondent did not produce the will executed in her favour and the name of Smt. Sonmati wife of Narain son of Mahuli was registered as his natural heir without any dispute, then the inheritance of Sonmati cannot be challenged on the basis of any such Will. The story of the respondent is false, imaginary and actuated with pre-planned conspiracy. There is no legal ground to accept it. Accordingly, the revision deserves to be allowed."

The order passed by the Revisional Authority now stands affirmed by the High Court.

Mr. Gaurav Agrawal, learned counsel appearing in support of the petition submitted that the findings rendered by the Revisional Authority were not after considering all the concerned issues and after recording evidence on record.

Be that as it may, the record indicates that an application seeking probate of the Will in question is presently pending consideration before the High Court of Allahabad in Testamentary Case No.09 of 2018. Thus, the issue whether the Will in question is proved or not and what shall be the logical consequences shall be gone into in said testamentary proceedings.

In view of the aforesaid, we see no reason to interfere in the matter. However, in the light of facts and circumstances of the case, we direct as under:

(a) The petitioner shall be at liberty to file such application for interim relief as is open to the petitioner in aforesaid testamentary proceedings within two months from today.

(b) If such application is filed, the same shall be considered on its own merits by the High Court as early as possible and preferably within one month from the filing of such application.

(c) The present state of affairs with respect to the property in question shall continue for next three months or till such time, the High Court passes any order whichever is earlier; and

thereafter, shall be governed in terms of the order of the High Court.

The issues in the testamentary proceedings shall be dealt with and disposed of by the High Court purely on merits, in accordance with law and without being influenced by any observation passed by the High Court in the present matter.

With these observations, this SLP is disposed of.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(PRADEEP KUMAR)  
BRANCH OFFICER